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Situation of human rights in Uzbekistan

Report of the Secretary-General*

Summary

The present report is submitted pursuant to paragraph 5 of General Assembly resolution 60/174, in which the Assembly requested the Secretary-General to submit a report to the General Assembly at its sixty-first session on the implementation of that resolution.

It concludes that the lack of response from the Government of Uzbekistan to the call for the establishment of an international commission of inquiry to look into the facts and circumstances of the Andijan events, coupled with the persistence of allegations of serious human rights violations, demonstrate no improvement since the adoption of resolution 60/174. Of particular concern is the deteriorating situation of human rights defenders and the increased restrictions on the activities of civil society, including non-governmental organizations.

* The submission of report was delayed in order to incorporate the outcome of consultations.

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I. Introduction

1. The situation of human rights in Uzbekistan was considered by the General Assembly at its sixtieth session. The present report is submitted pursuant to General Assembly resolution 60/174 of 16 December 2005.

2. The Government of Uzbekistan has provided information on the implementation of resolution 60/174 (A/60/914, annex).

II. Implementation of General Assembly resolution 60/174

A. Developments relating to the aftermath of the Andijan events

Implementation of the recommendations contained in the report of the mission to Kyrgyzstan of the Office of the United Nations High Commissioner for Human Rights

3. Following the mission of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to Kyrgyzstan from 13 to 21 June 2005 concerning the events in Andijan, Uzbekistan, the High Commissioner for Human Rights on 23 June 2005, addressed a letter to President Karimov of Uzbekistan expressing her conviction as to the need for an independent international investigation into the events that took place in Andijan in May 2005. By letter of 11 July 2006, the High Commissioner transmitted the report of the mission (E/CN.4/2006/119), which also recommended the establishment of an international commission of inquiry into the Andijan events. In a press statement of 12 May 2006, one year after the events in Andijan, the High Commissioner expressed regret that no internationally accepted account of the events had been established. She also expressed the hope that Uzbekistan would still take advantage of the offers for assistance made in this regard by the international community, including the United Nations. To date, no response has been received from the Government of Uzbekistan granting permission for the establishment of an international investigation into the Andijan events.

4. Shortly after the Andijan events, the Special Rapporteur on extrajudicial, summary or arbitrary executions of the then-Commission on Human Rights requested a visit to the country. Thus far, the Government of Uzbekistan has not issued an invitation to the Special Rapporteur.

5. In its recently adopted concluding observations, dated 2 June 2006 (CRC/C/UZB/CO/2), the Committee on the Rights of the Child urged the Government of Uzbekistan to establish an independent commission of inquiry into the incidents of 13 to 14 May 2005 in Andijan, and to invite those special procedures mandate-holders who have made requests to visit the country (paras. 32 and 33).

6. Also, on the first anniversary of the Andijan events, in May 2006, the Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy of the European Union, Javier Solana, noted with regret the continuing refusal of the Uzbek authorities to heed the calls of the European Union and others for a credible investigation into the Andijan events.

7. In the Vienna Summit Declaration of 21 June 2006, the European Union and the United States of America stressed that they would each continue to call upon the Government of Uzbekistan to facilitate an independent international investigation into the Andijan events.

Trials related to the events in Andijan

8. A mission of the Office for Democratic Institutions and Human Rights (ODIHR) of the Office of the Organization for Security and Co-operation in Europe (OSCE) attended the trial by the Supreme Court of Uzbekistan of 15 men who were each charged with multiple offences, including murder, terrorism, the attempted overthrow of the constitutional order of the Republic of Uzbekistan, the establishment of and participation in an illegal organization, hostage-taking, illegal possession of arms and ammunition, production and dissemination of materials containing threats to public security, incitement of ethnic and religious hatred, destruction of and damage to property, sabotage, banditry, smuggling, resistance to authority, and other charges. The trial lasted from 20 September to 14 November 2005. The 15 men were sentenced to prison terms ranging from 14 to 20 years. On 21 April 2006, ODIHR released its "Report from the OSCE/ODIHR trial monitoring in Uzbekistan — September/October 2005". Since the mission was not granted access to defendants, defence lawyers or case materials, it was unable to draw firm conclusions. However, from the observations that the mission was able to make, concrete concerns emerged of possible violations of the right to a lawyer in pre-trial stages, the right to a competent and effective counsel and the right to a public trial, protected by international human rights treaties to which Uzbekistan is a party.

9. According to the report, a key feature of the trial was the absence of arguments for the defence. Independent lawyers were reportedly barred from representing some of the defendants. While all of the defendants had State-appointed lawyers at trial, it remained unclear whether they had been afforded legal representation as soon as arrested, as prescribed by law. During the trial, there was no attempt by the State-appointed defence lawyers to question the defendants properly, nor to cross-examine prosecution witnesses with the aim of establishing facts advantageous to the defendants. While the prosecution called 103 witnesses, not a single witness for the defence was called. In their closing remarks, the report indicates, the defence lawyers in most cases gave no analysis of evidence presented at trial that might favour the defendants, and they confirmed rather than sought to refute the arguments of the prosecutors.

10. According to the report, no relatives of the 15 defendants were present in the court room. The mission noted that access by members of the public to any trial taking place in the building of the Supreme Court was conditional on inclusion of their names on an approved list of people to be given access to the trial in question. It appeared that access of human rights defenders to the trial had also been denied.

11. Among the recommendations of the report were that the verdicts of the 15 defendants be set aside and the defendants be retried subject to the findings of an independent impartial investigation; that all trial safeguards, in law as well as in practice, be reviewed by the Government in order to address and rectify any identified shortcomings; that the conduct of the State-appointed lawyers in the trial be reviewed, and that access to persons convicted of crimes related to the Andijan events be granted to international bodies competent to assess their conditions of

detention. OSCE/ODIHR was not aware of any specific measures taken to implement these recommendations.

12. On 29 September 2005, the High Commissioner for Human Rights addressed a letter to the Government of Uzbekistan asking for permission to send monitors to observe the trial of the 15 men tried in relation to the Andijan events. The Government of Uzbekistan was not willing to grant that permission on acceptable terms. In her statement to the Human Rights Council of 23 June 2006, the High Commissioner expressed concern as to the unwillingness of the Government of Uzbekistan to have the trials monitored on acceptable terms.

13. According to information received by OHCHR, as of 2 May 2006, 19 trials related to the Andijan events had been conducted, one of which was in open session. A total of 257 defendants had reportedly been sentenced.

14. On 15 June 2006, the Government of Uzbekistan informed OHCHR that judicial proceedings related to the events in Andijan had been conducted in closed session upon the decisions of the court in order to protect victims, witnesses and State secrets, with the exception of the trial conducted from 20 September to 14 November 2005.

15. In addition, on 23 December 2005, in response to information received regarding the conviction of scores of defendants in closed-door trials related to the Andijan events, the High Commissioner for Human Rights said in a press statement that, as conducted, these trials risked having produced unjust and unfounded convictions while the real perpetrators of atrocities remained unpunished. She urged the Government of Uzbekistan to abide by fair trial standards. OHCHR has since received information that further closed trials related to the Andijan events have taken place.

16. Also on 23 December 2005, 19 soldiers and 5 police officers were convicted by a military court for negligence, dereliction of duty, abuse of power and violation of the laws on surveillance, and sentenced to one to three years' imprisonment for failure to defend governmental buildings during the Andijan events.

The situation of eyewitnesses and others reporting on the Andijan events

17. Since mid-May 2005, OHCHR and the special procedures of the Commission on Human Rights have received a significant amount of credible information on harassment and detention of eyewitnesses of the events in Andijan, as well as journalists, media officers and human rights defenders who reported on these events. Fourteen out of 22 communications sent by the special procedures between mid-May and December 2005 to the Government of Uzbekistan were related to the Andijan events; three of them concerned the situation of eyewitnesses and the remaining 11 addressed situations of journalists, media officers and human rights defenders who reported on the Andijan events. Information received by OHCHR and the special procedures in 2006 suggest no change in the situation.

18. On 9 August 2006, the Government of Kyrgyzstan extradited four Uzbek refugees and one asylum-seeker to Uzbekistan. The High Commissioner for Human Rights and the High Commissioner for Refugees, as well as the European Union, OSCE and others issued statements of concern about the refoulement, including concerns for the safety of the five men who had been returned. The four refugees were among 500 individuals who had fled the Andijan events and crossed the border

into Kyrgyzstan. The Kyrgyz authorities had arrested them following extradition requests by the Prosecutor-General of Uzbekistan in June 2005. All four were granted mandate refugee status by UNHCR. Between February and June 2006, at last instance, the Supreme Court of Kyrgyzstan issued judgements which upheld the Government of Kyrgyzstan's negative refugee status determination decisions. The four individuals had been accepted for resettlement in third countries. The asylum-seeker, who was arrested in October 2005 following a request from Uzbekistan, still had his asylum appeal claim pending. Back in Uzbekistan, the five Uzbek citizens face a series of charges, including terrorism, the attempted overthrow of the constitutional order of the Republic of Uzbekistan, and the establishment of an illegal organization. As per information received by OHCHR, no one has been granted access to the five since their return.

19. The fate of four other Uzbek individuals, who fled the Andijan events to Kyrgyzstan and were forcibly returned to Uzbekistan in June 2005, remains unclear. Though the Government of Uzbekistan informed OHCHR about their whereabouts, no international body has been granted access to them thus far.

20. UNHCR continues to be concerned about the fate of an increasing number of Uzbek asylum-seekers and refugees, some of whom fled the Andijan events, who have been detained in countries of the Commonwealth of Independent States and forcibly returned to Uzbekistan despite a real risk of mistreatment in breach of international standards. In February 2006, 11 Uzbek asylum-seekers were forcefully returned from Ukraine to Uzbekistan. In a press statement of 16 February 2006, UNHCR said that it was appalled by this forceful deportation. Thus far, the Office of the United Nations High Commissioner for Refugees (UNHCR) has not had access to the 11 individuals. Furthermore, in a statement of 25 August 2006, UNHCR expressed grave concern about the fate of five Uzbek asylum-seekers who disappeared in July and August 2006 in southern Kyrgyzstan. UNHCR received credible information that at least two of the abducted asylum-seekers were in police custody in Andijan as of October 2006. According to information received by OHCHR, no access has been granted to these individuals since their return to Uzbekistan.

21. OHCHR is concerned about other individuals who have fled since the Andijan events and who are under pressure from the Government of Uzbekistan or the host country to return despite a real risk of mistreatment in breach of international standards.

B. Cooperation of the Government of Uzbekistan with United Nations human rights bodies and mechanisms

Office of the High Commissioner for Human Rights

22. Despite several requests, OHCHR has not been granted access to Uzbekistan in order to establish the facts and circumstances of the Andijan events of May 2005. In her statement to the first session of the Human Rights Council on 23 June 2006, the High Commissioner noted that closed-door policies and denial of access were sources of grave concern, and that she regretted that her Office had been unable to complete a comprehensive assessment of the trials related to the killings of possibly several hundred persons.

23. OHCHR recently appointed a Regional Representative for Central Asia. Thus far, the Government of Uzbekistan has not indicated any readiness to cooperate with the Regional Representative.

Special procedures of the Commission on Human Rights

24. In 2002, the Special Rapporteur on the question of torture visited Uzbekistan and issued a report containing 22 recommendations to the Government of Uzbekistan, focusing mainly on the creation of legal and procedural safeguards against the infliction of torture throughout the investigative process as well as on the inadmissibility of evidence obtained by torture (E/CN.4/2003/68/Add.2). In 2004, the Government of Uzbekistan adopted a National Plan of Action for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 19 May 2006, the Special Rapporteur requested the Government of Uzbekistan to extend to him an invitation to undertake a follow-up mission to Uzbekistan in order to gather information on the implementation of the recommendations from the 2002 visit.

25. Several other special procedures have also requested an invitation to visit Uzbekistan — the Special Rapporteur on extrajudicial, arbitrary or summary executions in 2005, the Special Rapporteur on the independence of judges and lawyers in 1996 and 2003, the Special Representative of the Secretary-General on the situation of human rights defenders in 2001 and the Special Rapporteur on freedom of religion or belief in 2004. To date, none of the special procedures has received such an invitation.

26. From January 2004 to December 2005, various special procedures sent 54 urgent appeals and letters of allegation to the Government of Uzbekistan. The Government has replied to 47 communications. The 32 communications addressed to the Government in 2005 were sent by the Special Representative of the Secretary-General on the situation of human rights defenders (E/CN.4/2006/95/Add.1), the Working Group on Arbitrary Detention (E/CN.4/2006/7), the Special Rapporteur on the question of torture (E/CN.4/2006/6/Add.1), the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2006/55/Add.1), the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2006/53/Add.1), the Special Rapporteur on freedom of religion or belief (E/CN.4/2006/5/Add.1), the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2006/61/Add.1) and the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2006/52/Add.1).

27. In 2006, special procedures continued to receive information regarding the human rights situation in Uzbekistan. Sixteen communications had been addressed to the Government of Uzbekistan as of July 2006.

Treaty bodies

28. Uzbekistan ratified the International Covenant on Civil and Political Rights (ICCPR) in 1995 and acceded to its Optional Protocol the same year. It has not taken action on the second Optional Protocol. It also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment (CAT) in 1995. It ratified the Convention on the Rights of the Child (CRC) in 1994 without its two Optional Protocols. It has not yet recognized the competence to consider individual communications under CEDAW, CAT and ICERD, nor did it accede to the Optional Protocol to CAT. Uzbekistan has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It ratified the Convention on the Prevention and Punishment of the Crime of Genocide. Uzbekistan signed the Rome Statute of the International Criminal Court in 2000.

29. Since 2004, Uzbekistan has submitted six State reports to the United Nations treaty bodies. It submitted its second periodic report to the Human Rights Committee (CCPR/C/UZB/2004/2), an initial report to the Committee on Economic, Social and Cultural Rights (E/1990/5/Add.63), combined third, fourth and fifth reports to the Committee on the Elimination of Racial Discrimination (CERD/C/463/Add.2) and a second periodic report to the Committee on the Rights of the Child (CRC/C/104/Add.6). The Government has also submitted combined second and third reports to the Committee on the Elimination of Discrimination against Women (CEDAW/C/UZB/2-3), which were considered in August 2006, and a second periodic report to the Committee against Torture (CAT/C/53/Add.1), to be considered in November 2007.

30. While the treaty bodies in general acknowledged that the reports were drafted in accordance with the guidelines for the preparation of reports, the Committee on the Elimination of Racial Discrimination, in its concluding observations of 8 March 2006 (CERD/C/UZB/CO), stressed that more information should be provided on the practical implementation of the provisions. The Committee on the Rights of the Child, in its concluding observations of 2 June 2006 (CRC/C/UZB/CO/2), underlined that several of its recommendations have not been given sufficient follow-up. Furthermore, the statistical data provided by Uzbekistan did not always allow for a clear evaluation by the treaty bodies, as pointed out by the Committee on Economic, Social and Cultural Rights in its concluding observations of 25 November 2005 (E/CN.12/UZB/CO/1).

Procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII)

31. Since 2003, Uzbekistan has been considered under the confidential 1503 procedure, which examines communications relevant to gross and systematic violations of human rights and fundamental freedoms in accordance with Economic and Social Council resolution 1503 (XLVIII), as revised by Council resolution 2000/3. In 2005, the Commission on Human Rights decided to extend the mandate of the independent expert on the situation of human rights in Uzbekistan established in 2004. The independent expert is mandated to follow up the implementation of the recommendations made by the previous independent expert. The independent expert prepared a confidential report for the sixty-second session of the Commission on Human Rights with specific recommendations to the Government of Uzbekistan; this report was examined by the Human Rights Council at its second session in September 2006.

C. Cooperation of the Government of Uzbekistan with United Nations bodies in Uzbekistan in the area of human rights

Human rights activities of the Office of the United Nations High Commissioner for Refugees

32. On 17 March 2006, the Government of Uzbekistan requested the Office of the United Nations High Commissioner for Refugees to close its offices in the country by 17 April 2006. The Ministry of Foreign Affairs announced that "Uzbekistan has fully implemented its tasks and there are no evident reasons for its further presence in Uzbekistan". Consequently, UNHCR no longer has a country office in Uzbekistan, which has led to a weakened protection of human rights of refugees in the country.

33. To date, Uzbekistan has neither signed nor ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Human rights projects of the United Nations Development Programme

34. The Government of Uzbekistan cooperates with the United Nations Development Programme (UNDP) through a series of joint activities. A new project, launched in January 2006, provides for capacity-building measures for the governmental National Human Rights Centre, the Ombudsman office and government bodies in the area of human rights. Human rights activities directed at capacity-building of civil society have been discontinued.

Human rights activities of the United Nations Children's Fund

35. The United Nations Children's Fund (UNICEF) facilitates in-service trainings for professionals working for and/or with children, including on issues of the Convention on the Rights of the Child as well as protection from abuse and exploitation. Moreover, UNICEF is supporting the Government in drafting a law on juvenile justice and facilitating the set-up of pilot juvenile courts. UNICEF also supports the Government with the establishment of child ombudspersons. Furthermore, UNICEF works with parliamentarians on the implementation of the Convention on the Rights of the Child and has recently published a book on child rights for their use. As part of its good governance programme, UNICEF has also started a series of training on the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women for local senior government officials.

D. Cooperation of the Government of Uzbekistan with other organizations and institutions in the area of human rights

Organization for Security and Cooperation in Europe

36. In March 2006, the Chairman-In-Office of the Organization for Security and Cooperation in Europe (OSCE) visited Uzbekistan in the course of his visit to the Central Asia region. The Chairman met with government officials and civil society representatives. In a press statement of 1 April 2006, he stressed that his organization stood ready to cooperate and discuss concrete projects in all three dimensions of OSCE activity, such as combating terrorism, promoting regional

economic cooperation and strengthening civil society. Following negotiations with the Government of Uzbekistan, on 30 June 2006 the OSCE office in Tashkent was restructured into a Project Coordinator in Uzbekistan by decision of the Permanent Council of OSCE. Unlike the previous OSCE presence, information received suggests that the new agreement does not mandate the Project Coordinator to monitor human rights developments in Uzbekistan. The scope of activities of the Project Coordinator was still being negotiated at the time of writing this report.

European Union

37. The Council of the European Union (EU), in its conclusions of 15 May 2006, remained profoundly concerned about the situation in Uzbekistan. It regretted that, since its previous conclusions of 3 October 2005, there had been worrying developments in the field of human rights in general, and in the follow-up to Andijan events in particular. The Council underlined that all measures adopted by the EU, in particular restrictions on admission to EU territory aimed at individuals directly responsible for the events in Andijan and for the obstruction of an independent inquiry, as well as an embargo on exports to Uzbekistan of arms, military equipment and other equipment which could be used for internal repression, remained in place. The measures would be reviewed by October 2006. The Council tasked the EU Special Representative for Central Asia to continue to engage with the Uzbek authorities.

International Committee of the Red Cross

38. Despite the conclusion of an agreement between the Government of Uzbekistan and the International Committee of the Red Cross (ICRC) in January 2001, providing for unhindered access to all detainees, ICRC has not been able to visit detention facilities since late 2004 under the conditions set forth in the above-mentioned agreement. In order to resume its visits, ICRC is seeking a constructive dialogue with the Uzbek authorities as of July 2006.

E. Developments relating to the implementation of General Assembly resolution 60/174: human rights issues

Fair and accessible trials

39. The Special Rapporteur on the independence of judges and lawyers, in his most recent report of 27 March 2006 (E/CN.4/2006/52/Add.1, para. 297), noted that in 2005 no fewer than nine communications had been addressed to the Government of Uzbekistan. He stated that he was worried by the frequency and gravity of the allegations received in 2005 regarding the situation in Uzbekistan. He reiterated his serious concern about the generally deteriorating human rights situation in the country. The Special Rapporteur was especially concerned regarding the conduct of the executive and prosecutorial authorities and the legislative framework in relation to the conduct of trials. The majority of the communications include information as to the lack of access to counsel at the pre-trial stage, lack of adequate defence procedures to ensure a fair trial and forced confessions. In 2006, the Special Rapporteur continued to receive information on the human rights situation in Uzbekistan pertaining to his mandate.

40. At its eighty-seventh session from 10 to 28 July 2006, the Human Rights Committee concluded a breach of guarantees of a fair hearing in case No. 959/2000 (*Bazarov v. Uzbekistan*), the right to defence in case No. 915/2000 (*Ruzmetov v. Uzbekistan*) and case No. 907/2000 (*Sirageva v. Uzbekistan*), the right to examine witnesses or have witnesses examined and the right not to be compelled to testify against oneself or to confess guilt in case No. 915/2000 (*Ruzmetov v. Uzbekistan*).

Decree on the introduction of habeas corpus

41. On 8 August 2005, the President of Uzbekistan issued a decree "On transferring to courts the right to issue sanctions for arrest". According to the decree, "the right to issue sanctions for arrest of persons suspected or accused of the perpetration of crimes shall be transferred to the courts' jurisdiction, as of 1 January 2008", and "taking into custody shall be carried out in exceptional cases when the application of other preventive punishment measures established by law appears to be inefficient, and only by the decision of criminal or military court in accordance with their competence". The Ministry of Justice, together with the Supreme Court, the Office of the General-Prosecutor, the Ministry of the Interior and the National Security Service have prepared draft amendments to the Criminal Procedure Code, the Law on Courts and the Law on the Procuracy in order to implement the above-mentioned decree. The Government of Uzbekistan has indicated that these drafts have been submitted to it for consideration.

42. By letter of 19 August 2005 to the Permanent Mission of Uzbekistan at Geneva, the High Commissioner for Human Rights commended the Government of Uzbekistan on the issuance of the decree and offered her Office's assistance in the course of its implementation.

Abolition of the death penalty

43. In accordance with a presidential decree of 1 August 2005, the death penalty is to be abolished in Uzbekistan as of 1 January 2008. The Government of Uzbekistan has informed OHCHR that it has established working groups to elaborate draft amendments to the Criminal Code, the Criminal Procedure Code, the Criminal Executive Code as well as other relevant legislation. Furthermore, OHCHR has been informed by the Government of Uzbekistan about awareness-raising measures among the population, the establishment of specialized institutions for the detention of persons convicted to life imprisonment or long prison terms and the procedures applicable for the training of prison personnel. No moratorium was put in place for the period preceding the entry into force of the presidential decree on 1 January 2008.

44. The High Commissioner for Human Rights, in a letter of 19 August 2005, expressed her appreciation for the decision to abolish the death penalty and encouraged the Government to introduce, as a matter of priority and with immediate effect, a moratorium on the issuance of death sentences as well as on their execution, pending its formal abolition as of 1 January 2008. In this context, she also indicated her Office's readiness to assist the relevant bodies in an early implementation of the decree.

Question of torture

45. As illustrated in his report of 21 March 2006 on follow-up to country recommendations (E/CN.4/2006/6/Add.2), the Special Rapporteur on the question of torture continues to receive information from non-governmental organizations on the lack of implementation of the recommendations contained in the report of the previous Special Rapporteur (E/CN.4/2003/68/Add.2). In 2005, the Special Rapporteur sent 13 communications to the Government of Uzbekistan mostly related to torture during investigations, convictions on the basis of confessions obtained under torture and incommunicado detention.

46. In an interview of 10 April 2006, the Special Rapporteur on the question of torture said that "there is ample evidence that both police and other security forces have been and are continuing to systematically practise torture, in particular against dissidents or people who are opponents of the regime".

47. The Committee on the Rights of the Child, in its concluding observations of 2 June 2006 (CRC/C/UZB/CO/2), while noting the National Plan of Action for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, expressed deep concern at the numerous reports of torture and ill-treatment of persons under 18 years of age, and the reportedly insufficient efforts of the State party to investigate allegations of torture and prosecute the alleged perpetrators. The Committee was also concerned at the definition of torture in the State Party's Criminal Code, which seems to allow for various interpretations by the judiciary and the law enforcement authorities.

48. The Human Rights Committee, in its concluding observations of 31 March 2005 (CCPR/OP/83/UZB), remained concerned about the high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods incompatible with article 7 of the International Covenant on Civil and Political Rights. The Committee expressed concern at the definition of torture in the Criminal Code of Uzbekistan. In addition, the Committee pointed to the allegations relating to widespread use of torture and ill-treatment of detainees and the low number of officials who have been charged, prosecuted and convicted for such acts. The Government of Uzbekistan was due to submit follow-up information by 26 April 2006 on these issues in accordance with the request of the Committee. So far, no such information has been submitted to the Human Rights Committee.

49. At its eighty-seventh session, the Human Rights Committee noted a breach of the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment in cases No. 907/2000 (*Sirageva v. Uzbekistan*), No. 915/2000 (*Ruzmetov v. Uzbekistan*) and No. 959/2000 (*Bazarov v. Uzbekistan*). Whereas the first case involved claims of maltreatment while in detention, the Committee considered that the authorities' failure to notify the author of the individual communication of the execution of her sons amounted to inhuman treatment, in violation of article 7 of the International Covenant on Civil and Political Rights.

Freedom of religion or belief

50. In her most recent report dated 9 January 2006 (E/CN.4/2006/5/Add.1), the Special Rapporteur on freedom of religion or belief made reference to the concluding observations of the Human Rights Committee, dated 31 March 2005

(CCPR/CO/83/UZB) in which the Committee expressed its concern about the use of criminal law to penalize the apparently peaceful exercise of religious freedom and the fact that a large number of individuals have been charged, detained and sentenced and that, while a majority of them were subsequently released, several hundred remain in prison. In addition, OHCHR has received a significant amount of information that criminal trials and convictions of such individuals have continued in 2006. The Human Rights Committee, in its concluding observations of 31 March 2005, also noted that the provisions of the Freedom of Conscience and Religious Organizations Act required religious organizations and associations to be registered in order to be able to manifest their religion or belief. Furthermore, the Committee was concerned about de facto limitations on the right to freedom of religion or belief, including the fact that proselytizing constitutes a criminal offence under the Criminal Code. The Special Rapporteur reiterated that she was still awaiting an invitation from the Government to carry out a visit to Uzbekistan, as she had requested in 2004.

51. Of all the communications sent by special procedures mandates in 2004 and 2005, 16 per cent referred to cases of religious intolerance, including cases of arbitrary arrests, incommunicado detention, torture while in detention, confiscation of religious literature by authorities and restrictions on the practice of religion such as religious communities being refused registration by the Government. In 2006, the Special Rapporteur continued to receive information on the human rights situation related to her mandate.

52. In a press statement of 30 June 2006, UNHCR expressed its concern at the arrest and detention of an Uzbek individual in Kazakhstan. The person fled in 1999 to Kazakhstan, fearing persecution because of his practice of Islam outside of State-run mosques. The person was granted refugee status by UNHCR. In June 2006, he was arrested by Kazakh authorities on the basis of an extradition request from Uzbekistan. After substantial negotiations between UNHCR and the Government of Kazakhstan, the Government handed over the individual to UNHCR on 15 August and he was immediately resettled to a third country with his family.

Registration of political parties and their ability to participate in the electoral process

53. Legal provisions and related practice continue to restrict the registration of political parties by the Ministry of Justice. The Human Rights Committee, in its concluding observations of 31 March 2005, urged the Government to bring its law, regulations and practice governing the registration of political parties into line with the provisions of articles 19, 22 and 25 of the International Covenant on Civil and Political Rights. Although the law allows for the registration of independent political parties, none of the four opposition parties had been registered by the end of July 2006.

54. On 19 June 2006, the Council of the European Union expressed its concern about the confirmation of convictions on appeal of Mr. Umarov and Ms. Khidoyatova, leaders of the unregistered political coalition "Sunshine Uzbekistan". The two were arrested in 2005 and convicted in March 2006 of a number of offences including fraud, embezzlement and membership in a criminal organization. On appeal Mr. Umarov's sentence was reduced from ten and a half years to seven years and eight months and Ms. Khidoyatova's was reduced to a

seven-year suspended sentence with a three-year probationary period and her immediate release in return for financial compensation to the State.

Activities of civil society, including non-governmental organizations

55. On 1 January 2006, amendments to the Criminal Code and the Code on Administrative Liability entered into force. The amendments increased the power of the authorities to penalize non-governmental organizations. Among the new provisions, non-governmental organizations can be penalized for conducting activities without State registration, the use of an unregistered logo, conducting events without the consent of the registering body, failing to provide reports of activities to the registering body or failure to provide reports in a "timely manner". Significant fines are imposed for involving others in activities of "illegal" non-governmental organizations, although the term illegal is not defined. The amendments also increased penalties against international non-governmental organizations for engaging in political activities, for activities inconsistent with their charters, or for activities not approved in advance by the Government.

56. The Special Representative of the Secretary-General on the situation of human rights defenders, in her compilation on developments in the area of human rights defenders since 2000, dated 6 March 2006 (E/CN.4/2006/95/Add.5), expressed her grave concern at these amendments.

57. In a press statement of 1 April 2006, the Chairman-in-Office of OSCE expressed his concern about reports of increasing pressure on non-governmental organizations over the past months and called for the strengthening of civil society in Uzbekistan.

58. In 2005 and 2006, there have been no new registrations of non-governmental organizations working on human rights issues. A significant number of domestic as well as international non-governmental organizations have been closed by court decisions or executive orders, mainly for violation of the national law governing non-governmental organizations, including the above-mentioned amendments to the Criminal Code and the Code on Administrative Liability, or for violations of the organizations' charters. Credible sources suggest that during the second half of 2005 up to 200 domestic organizations had been closed by order of the authorities.

59. Among the branches of international non-governmental organizations closed in 2005 and 2006 were Internews Network, the International Research and Exchange Board (Irex), Freedom House, the Central European and Eurasian Law Initiative of the American Bar Association, the American Council for Collaboration in Education and Language Study (ACCELS), Counterpart International, the Global Involvement through Education, the Central Asian Free Exchange (CAFÉ) and the Urban Institute. The Eurasia Foundation decided to discontinue its activities in Uzbekistan after the Uzbek authorities initiated proceedings in March 2006 for its liquidation.

Protection of journalists and functioning of independent media outlets

60. On 24 April 2006, the Government of Uzbekistan issued resolution No. 33 "On the approval of the guidelines regulating professional activities of correspondents of foreign mass media", which affects the activities of both foreign and national journalists who work for foreign media outlets. The guidelines granted broad powers to the Ministry of Foreign Affairs with respect to accreditation of foreign journalists

and the establishment of offices in Uzbekistan. In addition, the Minister of Foreign Affairs had the power to revoke accreditation, cancel entry visas and apply administrative measures, including expulsion from the country. No remedy against such measures was foreseen in the guidelines. Other provisions included criminal liability of Uzbek citizens working for non-accredited foreign mass media.

61. In his report of 27 March 2006, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression referred to numerous reports he had received on the worrying human rights situation relating to the right to freedom of opinion and expression in Uzbekistan since 13 May 2005 (E/CN.4/2006/55/Add.1). In 2005, the Special Rapporteur addressed 13 communications to the Government of Uzbekistan. In 2006, the Special Rapporteur continued to receive information on the human rights situation in Uzbekistan related to his mandate.

62. In 2005 and 2006, several correspondents of media outlets reporting from Uzbekistan were obliged to discontinue their activities in Uzbekistan. In October 2005, the broadcaster BBC announced a suspension of its activities in Uzbekistan and withdrew its reporters in response to harassment and intimidation of its journalists and concerns for their safety. The Institute for War and Peace Reporting similarly decided in December 2005 to discontinue all activities in Uzbekistan following frequent intimidation, harassment of and attacks against its reporters. Also in December 2005, the Government of Uzbekistan refused to renew the accreditation of the Uzbek service of Radio Liberty/Radio Free Europe. In March 2006, the Government of Uzbekistan revoked the accreditation of correspondents of the German public radio network Deutsche Welle.

63. The Human Rights Committee, in its concluding observations of 31 March 2005 (CCPR/CO/83/UZB), remained concerned about persistent reports that journalists had been harassed in the exercise of their profession and recommended that Uzbekistan adopt appropriate measures to prevent any harassment or intimidation of journalists and ensure that its legislation and practice give full effect to the requirements of article 19 of the International Covenant on Civil and Political Rights.

64. In an interview of 7 March 2006, the OSCE Representative on Freedom of the Media underlined his hope that the level of cooperation with Uzbekistan would improve in the future.

Active protection of human rights defenders

65. In her report dated 22 March 2006 (E/CN.4/2006/95/Add.1), the Special Representative of the Secretary-General on the situation of human rights defenders remained extremely concerned about the situation of human rights defenders in Uzbekistan, which had worsened following the Andijan events in May 2005. She noted the extremely hostile environment that human rights defenders operate in and was concerned about allegations of arbitrary arrests, detentions, harassment and torture being used by the authorities to prevent human rights defenders from carrying out their legitimate activities in defence of human rights. Furthermore, the Special Representative of the Secretary-General on the situation of human rights defenders, in her compilation of developments in the area of human rights defenders since 2000, dated 6 March 2006 (E/CN.4/2006/95/Add.5), noted that Uzbek human rights defenders face persecution, defamation campaigns orchestrated by State

representatives, the reticence of the Government to register independent human rights NGOs, and restrictions preventing financial and technical aid from abroad. An inadequate legal framework and a reported lack of will of the Government to fully implement relevant provisions of the Declaration on Human Rights Defenders placed human rights defenders at serious risk. In 2005, the Special Representative addressed 13 urgent appeals and letters of allegation to the Government of Uzbekistan. Twelve communications had been sent by the Special Representative to the Government between January and July 2006.

66. On 19 June 2006, the Presidency of the Council of the European Union, on behalf of the European Union, observed with concern the confirmation of the conviction of Ms. Mukhtabar Tajibaeva, head of an unregistered domestic human rights organization. In October 2005, Ms. Tajibaeva was arrested at her home while preparing to attend the Third Platform on Human Rights Defenders being held in Dublin. On 6 March 2006, Ms. Tajibaeva was convicted on 17 different charges, including slander and membership in an illegal organization, on the grounds that her human rights organization was not registered under the Law on Amendments to the Criminal Code and the Code of Administrative Liability concerning NGOs. She was sentenced to eight years in prison. According to information received by the Office of the High Commissioner for Human Rights, on 7 July 2006, Ms. Tajibaeva was transferred to a facility for mentally ill and drug-addicted persons in a detention centre for women in Tashkent.

67. The Presidency of the Council of the European Union on 19 June 2006 also urged the Uzbek authorities to provide information as to the whereabouts and current situation of the human rights defender Saidjakhon Zainabitdinov who was sentenced in January this year, and his son Ilhom Zainabitdinov, arrested on 22 May 2006. According to information received by the Office of the High Commissioner for Human Rights, Saidjakhon Zainabitdinov was sentenced to seven years in prison in a closed trial on charges relating to information he distributed relating to the Andijan events, and no lawyer of choice, family member or independent observers have had access to him since before his trial.

68. In respect of these individual cases, the EU called on Uzbekistan to comply with all relevant international human rights standards and treaty obligations and commitments made as a member of the Organization for Security and Cooperation in Europe concerning the right to fair trial, freedom of expression and the protection of human rights defenders.

F. Other developments relating to the implementation of General Assembly resolution 60/174

Travel restrictions

69. Despite several requests, OHCHR has not been granted access to Uzbekistan in order to establish the facts and circumstances of the Andijan events of May 2005. Other international organizations and bodies also continued to face restrictions on their travel to Uzbekistan.

III. Conclusions and recommendations

70. **The Secretary-General welcomes the promulgation of the decrees on the abolition of the death penalty and the introduction of the right to habeas corpus as of 1 January 2008. In this context, he encourages the Government of Uzbekistan to introduce, with immediate effect, a moratorium on the passing of death sentences as well as on their execution. The Secretary-General also encourages the Government to work together with relevant United Nations bodies for an early implementation of both decrees.**

71. **The Secretary-General acknowledges the efforts made by the Government of Uzbekistan in submitting periodic reports to the United Nations treaty bodies. In this context, he stresses the utmost importance of the implementation of the concluding observations and recommendations of the United Nations treaty bodies and the views on individual complaints of the Human Rights Committee.**

72. **The lack of response from the Government of Uzbekistan to the call for the establishment of an international commission of inquiry to examine the facts and circumstances of the Andijan events coupled with the persistence of allegations of serious human rights violations, demonstrate that there has been no improvement since the adoption of General Assembly resolution 60/174. Of particular concern is the deteriorating situation of human rights defenders and the increased restrictions on the activities of civil society, including non-governmental organizations.**

73. **The Secretary-General calls upon the Government of Uzbekistan to implement fully and without delay the recommendations contained in the report of the mission to Kyrgyzstan by the Office of the United Nations High Commissioner for Human Rights concerning the events in Andijan, Uzbekistan (E/CN.4/2006/119), in particular with respect to granting permission for the establishment of an international commission of inquiry into the events in Andijan.**

74. **The Secretary-General urges the Government of Uzbekistan to spare no effort to protect and safeguard the rights of eyewitnesses to the Andijan events and their families, as well as journalists, human rights defenders and other members of civil society. In this context, he also urges the Government to grant international organizations and bodies unhindered access to all detainees.**

75. **The Secretary-General urges the Government of Uzbekistan to facilitate access to all asylum-seekers and refugees who have returned to Uzbekistan, whether they are held in detention or not. In particular, he calls upon the Government of Uzbekistan to grant access by international observers to the four refugees and one asylum-seeker who were returned from Kyrgyzstan to Uzbekistan in August 2006 as well as to the four Uzbek citizens who were returned to Uzbekistan in June 2005.**

76. **The Secretary-General further calls on the Government of Uzbekistan to implement fully the recommendations contained in the "Report from the OSCE/ODIHR trial monitoring in Uzbekistan — September/October 2005" of April 2006.**

77. **The Secretary-General calls upon the Government to extend an invitation in accordance with the special procedures' standard terms of reference to thematic special mechanisms of the Human Rights Council who have expressed interest in visiting the country, namely the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. The Secretary-General also urges the Government of Uzbekistan to increase its efforts to implement the recommendations of the Special Rapporteur on the question of torture in his 2002 report (E/CN.4/2003/68/Add.2) through the continued implementation of its National Plan of Action for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other appropriate means.**

78. **Finally, the Secretary-General calls upon the Government of Uzbekistan to cooperate actively with the Regional Representative of the High Commissioner for Human Rights.**